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Government  
Publications

General publications

MOTOR VEHICLE  
ACCIDENT CLAIMS  
FUND  
AND  
ITS OPERATION

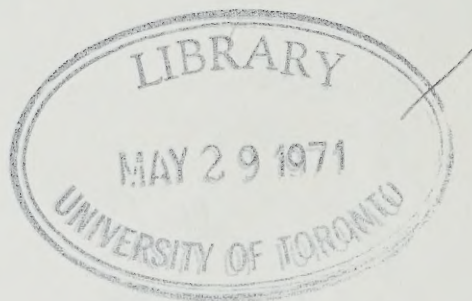


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THIRD EDITION

ONTARIO DEPARTMENT  
OF TRANSPORT  
FERGUSON BLOCK,  
QUEEN'S PARK,  
TORONTO 5.



**COPIES OF THIS BROCHURE ARE AVAILABLE  
ON REQUEST FROM THE:**

DIRECTOR OF CLAIMS,  
MOTOR VEHICLE ACCIDENT CLAIMS FUND,  
ONTARIO DEPARTMENT OF TRANSPORT,  
FERGUSON BLOCK,  
QUEEN'S PARK,  
TORONTO 5, ONTARIO.



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## A MESSAGE FROM THE MINISTER OF TRANSPORT

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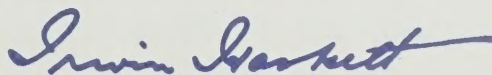
*This brochure contains general information on the operation of The Motor Vehicle Accident Claims Fund. I believe it provides the best protection available in the North American continent against damages occasioned in motor vehicle accidents by uninsured motorists, which occur in the Province of Ontario.*

*While the percentage of uninsured resident motorists is small, there are also the non-resident motorists and the hit and run cases, all of which create the problems against which this Fund is designed to protect you, subject to certain limitations outlined clearly within the brochure.*

*Should you be involved in an accident with an uninsured motorist, this booklet explains how you may obtain redress for your damages.*

*The Fund operates an established claims office with adjusters conveniently located throughout the Province to serve you. Its aims are to handle your claim as expeditiously as possible and to assure that you receive prompt and courteous attention.*

*Applications made to the Fund are dealt with speedily and most claims are settled without resort to litigation. Where litigation is necessary, the Department is represented by competent legal Counsel who are instructed to move matters ahead as quickly as possible to assist the innocent parties.*



IRWIN HASKETT

PART I  
FOR  
INNOCENT  
PERSONS  
SUFFERING  
LOSS

**Question 1. WHEN CAN I CLAIM PAYMENT  
FROM THE MOTOR VEHICLE  
ACCIDENT CLAIMS FUND?**

*Answer:* (a) When you have been innocently involved in a motor vehicle accident *in Ontario*, in which you have suffered personal injury or property damage, with an uninsured owner or driver. (A property damage claim is payable providing the amount is not *less than \$50.00* and *no property damage is payable where you are involved with a Hit and Run unidentified motorist.*)

(b) In respect to a Hit and Run accident, you can claim for personal injury subject to proof that you have been a victim of a Hit and Run or unidentified motor vehicle.

**Question 2. HOW DO I ASCERTAIN WHETHER THE OTHER  
MOTORIST IS UNINSURED?**

*Answer:* Enquire from the police constable who investigated the accident whether the other motorist is insured for public liability and property damage. It is the constable's duty to get this information. You may ask him at the scene of the accident or at the police station where the accident has been reported. Of course, you could also ask the other owner or driver. He probably will be able to give you the name of his Insurance Company and Agent if he is insured.

**Question 3. IF THE OTHER MOTORIST IS UNINSURED,  
HOW DO I COLLECT MY DAMAGES?**

*Answer:* There are two courses open to you. You may make a settlement directly with the uninsured owner and driver or you may make a claim against the Motor Vehicle Accident Claims Fund. In the latter event, you should write to:

THE DIRECTOR OF CLAIMS,  
ONTARIO DEPARTMENT OF TRANSPORT,  
FERGUSON BLOCK,  
QUEEN'S PARK,  
TORONTO 5, ONTARIO

When you wish to make a claim against the Fund, communicate directly with the above, giving the following particulars:

1. Your name, address, and phone number.
2. The date, time, and place of the accident.



3. The name and address of both the owner and driver of the other vehicle together with the owner's permit number of the vehicle.
4. Give a brief description of the accident and if there are injuries, describe briefly the injuries, as well as the amount of the property damage.
5. The Police Department investigating the accident and, where possible, the name and number of the officer.

On receipt of this information, the Director will supply you with an application form.

**WARNING:**

*If you wish to settle with the uninsured motorist, make sure you can recover within the limitation period of one year from the date of the accident and that the basis of payment does not decrease your loss to below the \$50.00 limit recoverable from the Motor Vehicle Accident Claims Fund.*

**Question 4. WHAT WILL HAPPEN WHEN I MAKE A CLAIM AGAINST THE MOTOR VEHICLE ACCIDENT CLAIMS FUND?**

*Answer:* An application must be completed and upon receipt the uninsured motorist will be put on a 30 day notice by registered letter.

The Director of Claims in the meantime may:

(a) Instruct an adjuster to investigate the claim (depending on the seriousness of it) contacting you and any witnesses who can give information about the accident. Within a reasonably short time, the investigation will be completed so that responsibility for the accident can be determined.

If you have suffered injury, you will be asked about your claim and expenses; and permission will be asked for a report from your doctor. If your injuries are such that their full extent cannot be ascertained, the adjuster will arrange to call on you again.

If you have suffered damage to your car, get two estimates from reliable garagemen. The adjuster will want to inspect the damage, if possible. *Although there is no obligation on you to delay repairs pending the visit from the adjuster, it is better to wait a reasonable time for the adjuster to arrive.*

(b) The uninsured motorist must, within the thirty-day period, either accept or deny liability for your damages. If the uninsured



motorist does not deny liability, the Motor Vehicle Accident Claims Fund will proceed with the adjustment of your loss.

The thirty-day waiting period is the time considered necessary for the uninsured motorist to be put on notice of his responsibilities and to decide to accept or deny liability. He has certain rights which he must exercise within the thirty-day period and *if he denies liability, your loss must be resolved by the Courts.*

Providing liability is admitted, payment can be made from the Motor Vehicle Accident Claims Fund and the uninsured motorist's licence and owner's permit are suspended and cannot be reinstated until he files proof of financial responsibility and makes arrangements to repay the Fund the amount paid to you.

This thirty-day waiting period from the date the application is received from you should cause no particular hardship and gives time for the investigation to be completed and time for the uninsured to answer the allegations made against him and resolve the financial obligation he accepts to repay your loss.

**Question 5. WHAT HAPPENS IF THE UNINSURED MOTORIST DENIES HIS LIABILITY TO ME?**

*Answer: Then you must sue him, and it is advisable that you should consult a Solicitor of your own choice* for the Director of Claims cannot act as Judge and Jury between you and the other motorist. It is logical that you yourself would expect the same treatment and it is the privilege of any motorist to have his day in court. Therefore, when there is a denial of liability by the uninsured motorist, within the thirty-day period, you should, having been advised of this by the Motor Vehicle Accident Claims Fund, *proceed through the courts to recover your damages.* But you must do so in accordance with the limitation period of one year from the date of the accident.

**Question 6. IF I HAVE TO SUE THE UNINSURED MOTORIST, WILL IT TAKE LONG TO BRING MY CASE TO TRIAL?**

*Answer: It depends upon many things; the complexities of the case and the willingness of the uninsured motorist and his solicitor to expedite the conduct of the lawsuit. Your solicitor, if he is experienced in the operation of the Motor Vehicle Accident Claims Act, is the best person to tell you how long it should take to bring your case to trial. The important thing is for you to instruct your lawyer imme-*



diately and to request that he proceed promptly with your claim and make contact with the Fund.

*NOTE: In the event the uninsured motorist cannot be located, Section 4 offers assistance to you and your solicitor in this regard, and provides that you may serve your writ upon the uninsured motorist by registered mail to the last address recorded with the Department of Transport and by leaving a copy with the Registrar of Motor Vehicles at the address shown herein. This removes any delay caused in trying to locate the uninsured motorist.*

**Question 7. WHAT HAPPENS IF THE UNINSURED MOTORIST DENIES LIABILITY AND THEN MAKES DEFAULT IN DEFENDING MY ACTION?**

*Answer:* Your solicitor must notify the Minister of Transport immediately. He will require the Director of Claims to instruct a solicitor to take over the defence of the action and either settle it or bring it to an early trial. From that time the defence of the uninsured motorist will be assumed by the Motor Vehicle Accident Claims Fund and every effort will be taken to force the action on for final determination.

**Question 8. WHAT HAPPENS IF, AFTER DEFENDING THE ACTION, THE UNINSURED MOTORIST LOSES AND I GET JUDGMENT AGAINST HIM?**

*Answer:* If he does not pay the judgment, it will be paid out of the Fund together with the taxed costs, up to the limits provided by the Act.

Your solicitor only has to make application to the Director of Claims by completing an application and sending it to him with the judgment and an assignment of same to the Minister of Transport.

**Question 9. WHAT CAN I EXPECT TO RECOVER BY WAY OF DAMAGES?**

*Answer:* If the uninsured motorist is entirely at fault, you will recover (a) all of your proven expenses caused by the accident — this includes the cost of repairing or replacing damaged property *provided the amount is not less than \$50.00*; (b) an award to compensate you for pain, suffering and disability, up to the limits provided by the Act. (See Question 13—answer); (c) and the expenses of medical and hospital bills incurred, *subject, of course, to deduction for any amounts paid under insurance contracts in accordance with the Motor Vehicle Accident Claims Act.*



**Question 10. WHAT CAN I EXPECT TO RECOVER IF I AM PARTLY AT FAULT?**

*Answer:* Your damages will be reduced by the degree to which your carelessness contributed to the accident. For example, if you were 25% at fault, you will recover 75% of your damages; or if you were 60% at fault, you will recover 40% of your damages.

**Question 11. WILL I RECOVER ANYTHING IF I AM ENTIRELY AT FAULT?**

*Answer:* No. The Motor Vehicle Accident Claims Act does not provide recovery for persons suffering injury through their own carelessness.

**Question 12. WHAT HAPPENS IF I DO NOT WISH TO ACCEPT AN OFFER OF SETTLEMENT MADE BY THE DIRECTOR OF CLAIMS?**

*Answer:* If you do not wish to accept an offer of settlement, you are entitled to *sue and must do so within one year from the date of the accident*, in accordance with the limitation period of the Highway Traffic Act, and you should consult a solicitor and proceed accordingly.

**Question 13. HOW MUCH CAN BE RECOVERED FROM THE MOTOR VEHICLE ACCIDENT CLAIMS FUND?**

*Answer:* If the accident occurred on or after the 1st of September, 1969, the Minister can pay up to \$50,000 (previously the limit was \$35,000), exclusive of costs, for injury or death of one or more persons or loss of or damage to property arising out of any one accident, subject to the proviso that no more than \$5,000, nor less than \$50, shall be paid for loss of or damage to property.

**Question 14. IF I AM A VISITOR TO ONTARIO FROM ANOTHER PROVINCE OF THE DOMINION OF CANADA OR ONE OF THE UNITED STATES, CAN I RECOVER FROM THE MOTOR VEHICLE ACCIDENT CLAIMS FUND?**

*Answer:* *Non-residents from Provinces or States other than Ontario* are entitled to recover if they reside in a jurisdiction in *which recourse of a substantially similar character to that provided by the Motor Vehicle Accident Claims Act is afforded to residents of Ontario*, provided that no payment shall include an amount that would not be payable by law of the jurisdiction in which such person resides.



PART II  
**HIT  
AND  
RUN  
VICTIMS**

**Question 1. IF I AM INJURED BY A HIT AND RUN MOTORIST, WHAT SHOULD I DO?**

*Answer:* At once notify the  
DIRECTOR OF CLAIMS,  
ONTARIO DEPARTMENT OF TRANSPORT,  
FERGUSON BLOCK,  
QUEEN'S PARK,  
TORONTO 5, ONTARIO

If you can advise by letter, give the Director of Claims the following:

- (a) Your name, address and telephone number.
- (b) The date, place and time of the accident.
- (c) The Police Department to which the accident was reported.
- (d) State briefly the extent of your injuries.

*IF YOU ARE UNABLE TO DO SO*, because of injuries, have someone do this for you or retain a solicitor to do so for you and on your behalf, *but remember again* you must proceed within the period of limitation, one year from the date of accident.

**Question 2. ON RECEIPT OF MY CLAIM, WHAT WILL BE DONE?**

*Answer:* The Director of Claims will send an adjuster to see you or your representative. He will obtain all particulars and report promptly to the Director. As soon as you are able to discuss settlement, an offer based on the merits of the claim will be made to you.

**Question 3. WHAT HAPPENS IF I DO NOT THINK THE OFFER OF SETTLEMENT IS SUFFICIENT?**

*Answer:* You are not bound to accept any offer of settlement made by the Director of Claims. If you do not consider it sufficient, then you should retain a lawyer and instruct him to sue the Registrar. The claim will be defended and brought to trial promptly.

**Question 4. IF I ACCEPT THE OFFER OF SETTLEMENT, HOW SOON WILL I GET MY MONEY?**

*Answer:* Because you have a claim against the Registrar of Motor Vehicles, caused by a Hit and Run vehicle, specific routine documents are required to be issued by the Court in order to preserve any rights against the unidentified driver, should he be identified at a later date. Such documents can be processed by your solicitor in a short period of time and payment will be made on receipt of these documents.

**Question 5. WHAT IF MY MOTOR VEHICLE OR OTHER PROPERTY IS DAMAGED BY A HIT AND RUN MOTORIST?**

*Answer:* The Motor Vehicle Accident Claims Fund *does not* make payment for *property damage or damage to motor vehicles* in cases where *the identity of the Hit and Run vehicle or driver has not been established.*

PART III  
THE  
UNINSURED  
MOTORIST

**Question 1. WHAT IS MY POSITION WHEN INVOLVED IN A MOTOR VEHICLE ACCIDENT, BEING THE OWNER AND/OR OPERATOR OF AN UNINSURED MOTOR VEHICLE?**

*Answer:* If you have caused or contributed to an accident—

1. A claim may be made directly to the Motor Vehicle Accident Claims Fund for payment of the damages, in the event of which, you will be advised by registered mail, to the last address as recorded with the Department, as to what steps you might take to protect your interests.
2. If a Writ of Summons is issued by the claimant against you, the Motor Vehicle Accident Claims Fund may intervene in the defence of the action in the event that you fail to defend it. In this situation, it would be in your best interests to communicate with the Motor Vehicle Accident Claims Fund office immediately.

In the event that a Claim or Judgment is paid from the Fund, on your behalf, your driver's licence and motor vehicle permit will be suspended until the amount of the payment has been repaid in full or an undertaking has been made to commence instalment payments.



**Question 2. WHAT NOTICE WILL BE GIVEN ME THAT A CLAIM HAS BEEN MADE AGAINST ME?**

*Answer:* When the Director of Claims receives a claim against you he will advise you by sending a notice by *registered mail to the last address registered with the Department*. This is the *only notice to which you are entitled*. If you *do not answer in writing* the notice within 30 days, the claim will be settled without your consent and you will be prohibited from owning or operating a motor vehicle until you arrange to repay the Fund the amount paid out in settlement. If you reply to the notice disputing liability or damages you will be afforded the opportunity of conducting your defence at your own expense.

**Question 3. DO I GET ANY BENEFIT OR PROTECTION BY HAVING PAID THE UNINSURED MOTOR VEHICLE FEE?**

*Answer:* Payment of the fee does not provide any insurance protection for owner and/or driver of an uninsured vehicle. Payment of the fee is to provide the funds to pay the damages to persons occasioned injury or damages by an uninsured vehicle.

The fee also provides, in the event of an accident, for an investigation to be made by the Motor Vehicle Accident Claims Fund and, if necessary, the defence of the action through the courts in respect to the mitigation of the damages. The Motor Vehicle Accident Claims Fund calls upon you for payment of the *judgment and the costs only*, which can be repaid on a modest monthly basis, *but makes no claim* against you in respect to the investigation, legal and any attendant expenses in protecting your interests.

